



March 11, 2011

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Atlanta Police Department
226 Peachtree Street, S.W.
Atlanta, Georgia 30303

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RE: Complaint of Melvin Burns, #10-57

Dear Chief Turner:

Cristina Beamud
Executive Director

The Atlanta Citizen Review Board ("ACRB") completed its investigation and adjudication of the complaint that was filed by Melvin Burns alleging excessive force by Officers Rodney Jefferson, Darnell Perry, and Victor Guevara. The allegations were investigated by Marc Addington based on a complaint made by Mr. Burns on September 29, 2010.

MAYOR of ATLANTA
KASIM REED

Mr. Burns filed a complaint alleging that he was stopped by the above named Red Dog officers at approximately 8:00 p.m. on September 23, 2010 at 396 Rawson Street. Mr. Burns said the reason he was stopped was because he was in a drug area. He was forced to the ground, stomped and kicked and they banged his head into the pavement. He said that he was in this area delivering some literature to a resident and he saw the APD patrol cars pull up. He said that a black officer came from the rear of the police car and grabbed his wrist. He was surprised and asked what the problem was and a second officer twisted his arm and then used his knee to force Mr. Burns to the ground. He described this officer as a black male officer, approximately six feet tall, wearing eyeglasses. The two officers stomped and hit him as he lay on the ground. A third officer, whom he described as Hispanic began to kick him as well. He suffered injuries to his right cheek, shoulders, left knee and wrists. The officers searched his car and removed a handgun that was locked in the center console. An ambulance was called to the scene and one of the black male officers told them to "clean him up," so that he could be transported to jail. He was charged with disorderly conduct. He was treated by the EMT's at the scene, but returned to the South Fulton Medical Center on September 26, 2010. The medical record shows that he sustained a contusion on his chest and thigh.

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A citizen witness, Johnnie Williams, was interviewed. Mr. Williams was at the Rawson Street location with about six others when the Atlanta Police officers pulled up. He claims that four officers approached Mr. Burns and he appeared to be surprised and yelled, "What is going on?" Mr. Williams said that an officer threw Burns to the ground and began to beat him. He also said Mr. Burns was coming from the apartment building and was not part of the group who were drinking. Mr. Williams has no relationship or connection with Burns. Mr. Williams was part of the group of people who were alleged to be drinking and were the subjects of the initial inquiry by the officers.

Continue ...

The four officers involved in this arrest were interviewed. Officer Chao said that he observed people drinking in a public place and investigated. He did not initially see Mr. Burns. He was involved with another person but heard Officer Jefferson speak to a male who was yelling. Officer Chao said he eventually assisted with Mr. Burns. He conducted an inventory search of Burns' car prior to the vehicle being impounded.

Officer Guevara said that he and Officer Chao approached another individual who was consuming alcohol in public. He heard yelling but did not see Officers Jefferson and Perry. When Officer Guevara investigated, he saw Melvin Burns lying on the ground in handcuffs. He assisted by moving Mr. Burns from the ground into a sitting position on the curb. He saw an injury to Mr. Burns' right cheek. He did not witness any force against Mr. Burns either before or after he was handcuffed. He did not observe Mr. Burns engage in illegal activity.

Officer Jefferson said that he first encountered Melvin Burns while Burns was in the group of people they were investigating. He described Burns as belligerent and disorderly and said that Burns would not leave the area after being given several commands to leave. Officer Jefferson decided to arrest Burns. Officer Jefferson alleges Burns resisted and that he had to use an arm bar to take him to the ground. Mr. Burns continued to resist the officer's attempts to handcuff him and Officer Perry assisted by pulling Burns' other arm behind him. Mr. Burns suffered an abrasion to his cheek and did not recall any other injuries. Officer Jefferson called an ambulance to treat Burns and asked the medics to "clean up" Mr. Burns.

Officer Perry indicated that he heard Officer Jefferson interact with Melvin Burns. He said that he saw Officer Jefferson take him to the ground and that he assisted Jefferson by pulling one of Burns' arms behind him. He recalls Mr. Burns' injury to his cheek but could not recall if he suffered any additional injuries.

The force reported by the officers does not account for the injuries sustained by Mr. Burns. The medical record supports Burns' version of the events. The arm bar used to force Burns to the ground could not account for the contusion on his chest. The contusions on his body are consistent with the complainant and witness statements. Officer Chao was not involved with the force that was used. He arrested another person. Mr. Burns was charged with Disorderly Conduct and the criminal charges were dismissed.

The Board considered the evidence and voted to **sustain** the allegation of Excessive Force against Officers Guevara, Perry and Jefferson.

The Board then considered the appropriate disciplinary recommendation for each of the officers:

- Officer Perry has been employed since 2003. He has had six complaints in the past five years. Three of those complaints were sustained. All of the sustained complaints were for failure to appear. He has served a one day suspension for the last sustained violation. For this reason, **the Board recommends that you impose a ten day suspension without pay for Officer Perry.**

Chief George Turner
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- Officer Jefferson has been employed with the Atlanta Police Department since 2007. He has had three complaints. Two of these three cases are still open. One was not sustained. Since he has no disciplinary history, **the Board recommends that you impose a four day suspension without pay for Officer Jefferson.**
- Officer Guevara has been employed with the Atlanta Police Department since 2005. He has had four complaints. Two of four cases are still open. Two were not sustained. Since he has no disciplinary history, **the Board recommends that you impose a four day suspension without pay for Officer Guevara.**

Please let me know if you have any questions or concerns or if you would like to have a copy of the full investigation. The ordinance requires that the Chief respond in writing regarding which recommendations are accepted, rejected, or will be implemented with modifications within thirty (30) days of the submission of a recommendation for action by the Board to the Chief. See Sec. 2-2211(O) of Ordinance 07-0-0141.

Sincerely,

A handwritten signature in blue ink, appearing to read "Joy Morrissey", with a stylized flourish at the end.

Joy Morrissey
Board Chair

cc: Mayor Kasim Reed
Council President Ceasar Mitchell
Members of Council
ACRB Board Members